

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DANIEL RALLS, :
Petitioner, :
v. : Case No. 3:08-cv-160-KRG-KAP
GERALD L. ROZUM, SUPERINTENDENT, :
S.C.I. SOMERSET, :
Respondent :

Report and Recommendation

Recommendation

Petitioner alleges he is serving a 18-36 month probation violation sentence in S.C.I. Somerset. He has submitted a petition for a writ of habeas corpus and motion for leave to proceed in forma pauperis. The motion for leave to proceed in forma pauperis is granted, but I recommend that the petition be summarily dismissed pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, and a certificate of appealability be denied.

Report

Petitioner asserts one ground for issuance of the writ, that through poor draftsmanship of its constitution in 1776, and through other drafting errors in the 1874 and 1968 versions of its constitution (which petitioner contends are invalid to amend or supersede the 1776 constitution anyway), Pennsylvania deprived itself of the power to punish criminal offenses. See Petition at 4-8. As with other imaginative jurisdictional arguments advanced by inmates over the years (they have seceded from the United States and as sovereign nations cannot be prosecuted; the state official who swore in the state official who swore in the state officials who

prosecuted or heard their cases did not take a valid oath of office, etc.), I reject this one. This court has the power to issue writs of habeas corpus to discharge inmates held by the judgment of a state court in violation of the federal constitution and laws. 28 U.S.C. § 2254(a). Because a state does not need a written constitution in order to establish criminal courts, the supposed irregularity of those courts under a state's written constitution or laws does not constitute a violation of any federal law.

Petitioner's petition should be dismissed without certificate of appealability.

Pursuant to 28 U.S.C. § 636(b)(1), the parties are given notice that they have ten days to serve and file written objections to this Report and Recommendation.

DATE: July 24, 2008

Keith A. Pesto
Keith A. Pesto,
United States Magistrate Judge

Notice by U.S. Mail to:

Daniel Ralls GJ-7020
S.C.I. Somerset
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Somerset, PA 15510